

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

18-CR-108-EAW

ROBERT MORGAN, FRANK GIACOBBE, TODD  
MORGAN, AND MICHAEL TREMITI,

Defendants.

In Re: Eastside Bond (an Unindicted Property)

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**STIPULATION BY AND AMONG THE UNITED STATES OF AMERICA, ROBERT  
MORGAN, TODD MORGAN, MORGAN EASTSIDE HOLDINGS, LLC, MORGAN  
EASTSIDE TOD, LLC, MORGAN EASTSIDE SP, LLC, EASTSIDE III TOD, LLC,  
EASTSIDE III TOD HOLDINGS, LLC, ESII MOSITES OWNERS, LLC, EASTSIDE  
LIMITED PARTNERSHIP III, ESIII SITE JV, LLC AND MM PARKING, LLC**

With regard to the premises, buildings, appurtenances, improvements and real property located 6105 Spirit Street, Pittsburgh, PA (Parcel# 0084-C-00055-0000-00 and 0084-C-00008-0000-00 ), as more particularly described on Exhibit A (attached hereto) (the Real Property, and together with appurtenances, the “Eastside Bond Property”), the United States of America, Robert Morgan, Todd Morgan, Morgan Eastside Holdings LLC, Morgan Eastside TOD LLC, Morgan Eastside SP LLC, Eastside III TOD LLC, Eastside III TOD Holdings LLC, ESII Mosites Owners LLC, Eastside Limited Partnership III, ESIII Site JV LLC and MM Parking, LLC (collectively, the “Parties”) hereby stipulate as follows:

1. WHEREAS the Parties agree that the Eastside Bond Property is leasehold owned and operated by Eastside III TOD LLC (“Eastside III TOD”), the same property as the property

described as “Eastside III TOD” in Addendum A of the Stipulation dated February 21, 2020, filed and so-ordered in the above-referenced matter (the “February Stipulation”). Dkt. 260 at 8.

2. WHEREAS the United States agreed in the February Stipulation that it will not seek forfeiture of the Eastside Bond Property or proceeds arising therefrom, “except that if any new illegal activity occurs after the date of this Stipulation, it may seek forfeiture on the basis of any such new illegal activity.” Dkt. 260 at ¶ 5; 8.

3. WHEREAS other real properties associated with Robert Morgan and Todd Morgan are subject to a civil forfeiture action titled, *United States of America v. The Premises and Real Property with All Buildings, Appurtenance, and Improvements Located at 7405 Morgan Road, et. al.* 1:19-cv-01157 (EAW) (W.D.N.Y. August 29, 2019).

4. WHEREAS Defendants Robert Morgan and Todd Morgan have indirect equity interests in Morgan Eastside TOD, LLC (“Morgan Eastside TOD”).

5. WHEREAS Morgan Eastside TOD is an owner of Eastside III TOD, the developer and owner of the Eastside Bond Property.

6. WHEREAS Robert Morgan and Todd Morgan have an indirect equity interest in Morgan Eastside SP, LLC (“Morgan Eastside SP”).

7. WHEREAS, Morgan Eastside SP is an owner of ESIII Site JV, LLC (“Site JV”), an entity which holds a right to purchase an interest in Eastside Limited Partnership III, the lessor under a ground lease of the land on which the Eastside Bond Property was developed.

8. WHEREAS Morgan Eastside TOD intends to effectuate a sale of its ownership interest in Eastside III TOD, and Morgan Eastside SP intends to effectuate a sale of its ownership interest in Site JV, both sales being pursuant to a Limited Liability Company Interests Purchase

and Sale Agreement (the “Equity Purchase”) in order to effectuate a condition precedent to a refinancing of a leasehold mortgage on the Eastside Bond Property (the “Refinancing”).

9. WHEREAS the Parties agree that the February Stipulation shall be construed to apply not only to the Eastside Bond Property and any rights to proceeds or distributions therefrom, but also to the equity interest held by Morgan Eastside TOD in Eastside III TOD and the equity interest held by Morgan Eastside SP in Site JV and any rights to proceeds and distributions therefrom.

10. The United States Attorney’s Office for the Western District of New York and/or any of the federal agencies participating in the current criminal investigation related to the Superseding Indictment (the “United States”) hereby agrees that they will not pursue as part of its civil and criminal forfeiture claims, and specifically and expressly waives any claim to the forfeiture of the Eastside Bond Property and the equity interests in Morgan Eastside TOD and Morgan Eastside SP and any proceeds and distributions therefrom including but not limited to the Equity Purchase and the Refinancing, except on the basis of any new illegal conduct alleged to have occurred after the date of the Equity Purchase and which is unrelated to the investigation in this matter and the related civil forfeiture matters.

11. The United States hereby agrees that they will not pursue as part of its civil and criminal forfeiture claims, and specifically and expressly waives any claim to the forfeiture of the Refinance lender’s secured interest in the Eastside Bond Property and leasehold, or the secured interest in monies to be loaned and advanced to Eastside III TOD by the Refinance lender, as well as any related principal and interest payments which will be made by Eastside III TOD to Refinance lender, if any, except on the basis of any new illegal conduct alleged to have occurred

after the date of the Equity Purchase and which is unrelated to the investigation in this matter and the related civil forfeiture matters.

Dated: September 1, 2020

By: JAMES P. KENNEDY, JR.  
United States Attorney

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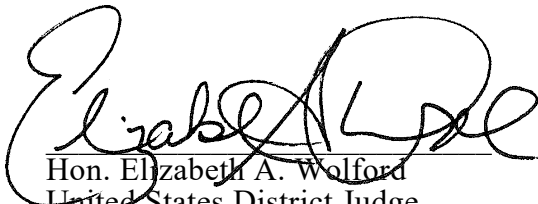
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SO ORDERED:

Dated: Rochester, New York  
September 1, 2020



Hon. Elizabeth A. Wolford  
United States District Judge

**EXHIBIT A**

**Parcel # 0084-C-00055-0000-00**

All that certain lot or parcel of land situate in the 7th Ward of the City of Pittsburgh, County of Allegheny and Commonwealth of Pennsylvania, being Lot 1 in the Eastside Limited Partnership III Plan, prepared by Civil & Environmental Consultants, Inc., Project No. 121-357, dated May 15, 2013 and recorded in The Department of Real Estate of Allegheny County Pennsylvania on July 23, 2014, in Plan Book Volume 280, Page 146.

The Land, together with (1) all rights, privileges, easements, and appurtenances belonging to or in any way appertaining thereto, and (2) subject to completion, in accordance with the terms and conditions of the Lease, the Shared Infrastructure and Parking Improvements Sub-Project, which means and includes shared site infrastructure and access ways with parking improvements and bicycle facilities but excludes the approximately 112,730 square foot mixed use structural transfer slab on top of the parking improvements and the right to build the Vertical Project thereon, as set forth in that certain unrecorded Mixed Use Structural Slab Sub-Project Ground Lease by and between Eastside Limited Partnership III, a Pennsylvania limited partnership, and Eastside III TOC, LLC, a Pennsylvania limited liability company, dated July 30, 2014, as memorialized by that certain Memorandum of Lease between Eastside Limited Partnership III, a Pennsylvania limited partnership and Eastside III TOD, LLC, a Pennsylvania limited liability company, dated July 28, 2014, effective July 30, 2014 and recorded in The Department of Real Estate of Allegheny County, Pennsylvania, in Deed Book Volume 15684, page 99; as amended by that certain First Amendment to Memorandum of Lease, dated February 10, 2016 and recorded on February 23, 2016, in The Department of Real Estate of Allegheny County, Pennsylvania, in Deed Book Volume 16296, page 381.

The Land, together with (1) all rights, privileges, easements, and appurtenances belonging to or in any way appertaining thereto, and (2) subject to completion, in accordance with the terms and conditions of the Ground Lease, the Mixed Use Structural Slab Sub-Project, which means and includes the approximately 112, 730 square foot mixed use structural transfer slab on top of the parking improvements and the right to build the Vertical Project thereon and excludes the shared site infrastructure and access ways with parking improvements and bicycle facilities, as set forth in that certain unrecorded Shared Infrastructure and Parking Improvements Sub-Project Lease by and between Eastside Limited Partnership III, a Pennsylvania limited partnership, and Eastside III TOC, LLC, a Pennsylvania limited liability company, dated July 30, 2014, as memorialized by that certain Memorandum of Lease between Eastside Limited Partnership III, a Pennsylvania limited partnership and Eastside III TOD, LLC, a Pennsylvania limited liability company, dated July 28, 2014, effective July 30, 2014 and recorded in The Department of Real Estate of Allegheny County, Pennsylvania, in Deed Book Volume 15684, page 109; as amended by that certain First Amendment to Memorandum of Lease dated February 10, 2016 and recorded on February 23, 2016, in The Department of Real Estate of Allegheny County, Pennsylvania, in Deed Book Volume 16296, page 372.

TOGETHER WITH the beneficial easements contained in the Permanent Shared Access and Bridge Pier Easement Agreement as set forth in Deed Book Volume 15331, page 477; as amended pursuant to that certain First Amendment to Permanent Shared Access and Bridge Pier Easement Agreement dated June 21, 2017 and recorded on June 28, 2017, in Deed Book Volume 16848, page 422.

BEING designated as Lot and Block No. 84-C-55 (formerly designated as Lot and Block Nos. 84-C-10, 84-C-57, 84-C-72, 84-C-74, 84-G-14-1, 84-G-27-1, 84-C-500, 84-C-55, 84-G-14, 84-G-26, 84-G-27 and 84-F-183), in the Tax Assessment Office of Allegheny County, Pennsylvania.

**Parcel # 0084-C-00008-0000-00**

Beginning at a point on the southerly line of Penn Circle South, 60' wide, formerly Centre Avenue, said point being the northeast corner of land now or formerly of William J. Kolano, as recorded in Deed Book Volume 11659, Page 258; thence along the southerly line of Penn Circle South, 60' wide, North  $68^{\circ}39'00.7''$  East, 46.81' to a point at the northeast corner of land now or formerly of Citizens Bank of Pennsylvania, as recorded in Deed Book Volume 11214, Page 57; thence along the westerly line of land now or formerly of Citizens Bank of Pennsylvania, the following two courses and distances, viz: South  $65^{\circ}07'38.4''$  East, 4.24' to a point; thence South  $21^{\circ}12'52.7''$  East, 92.15' to a point on the northerly line of Houston Street, 40' wide; thence along the northerly line of Houston Street, 40' wide, South  $68^{\circ}39'00.7''$  West, 49.54' to a point at the southeast corner of land now or formerly of William J. Kolano; thence along the easterly line of land now or formerly of William J. Kolano, North  $21^{\circ}20'29.1''$  West, 95.21' to the place of beginning.